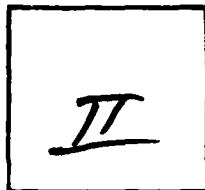


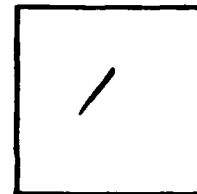
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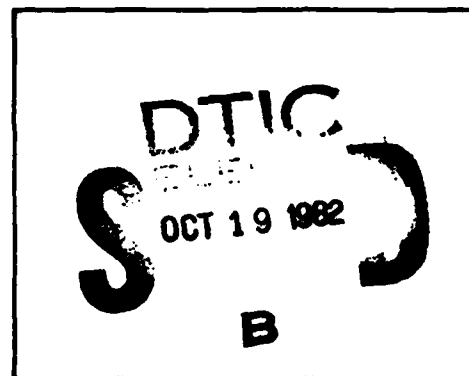
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RESEARCH PAPER



STATUS CHANGES UNDER THE MISSING PERSONS ACT

by

Ralph P. Holt

Colonel, U.S. Marine Corps

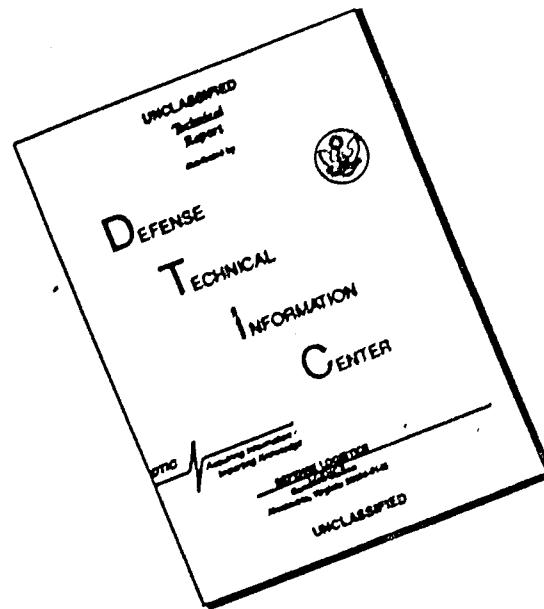
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NAVAL WAR COLLEGE
Newport, R.I.

STATUS CHANGES UNDER THE MISSING PERSONS ACT

BY

Ralph P. Helt

Celonel, U.S. Marine Corps

A term paper submitted to the faculty of the Naval War College in partial satisfaction of the requirements of the College of Naval Warfare Management Course.

The contents of this paper reflect my own personal views and are not necessarily endorsed by the Naval War College or the Department of the Navy.

Ralph P. Helt

ABSTRACT

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An analysis of the dilemma facing the U.S. Government in resolving the cases of over 1300 personnel who were unaccounted for following the release of U.S. prisoners of war by North Vietnam. A brief overview of the treatment of captives by belligerents throughout history is cited as a background for the Paris Agreement and withdrawal of U.S. forces from Vietnam. The Communists have not lived up to the agreement and search efforts by the U.S. have been severely restricted. The divisiveness of the war carries into the families of unaccounted for personnel. The Constitutionality of the Missing Persons Act was the subject of legal action initiated by some next of kin to bar status changes. In this regard, procedures used by the services have been modified but there are still many judgmental considerations. The prospects for our gaining additional information about those who are unaccounted for is not encouraging. Continuing civil court litigation can be expected and the services must use the Vietnam experience to update their procedures for future contingencies.

PREFACE

Some of the information contained in the introduction of this paper pertaining to the history of captured personnel was gleaned from a paper prepared in 1971 by analysts of the House Committee on Foreign Affairs.

This paper contains my views developed from a recently completed tour of duty in Washington where I was directly involved in Prisoner of War and Missing in Action matters and from observation of the operations of the Joint Casualty Resolution Center in Nakon Phanom, Thailand.

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INTRODUCTION

The disposition of captive military forces and civilian populations has, throughout history, been a decision which combatant tribes and armies have generally made with little respect for the human elements involved. In ancient times, captives were not, as we know the term today, considered as prisoners of war but were instead the spoils of victory to be used in any manner the victor desired. During these early times, prisoners were generally executed or held to be later used as human sacrifices to the Gods.

As ancient civilizations began to expand and progress, there developed an acute need for large labor forces to be used in the construction of fortresses, roads, temples and public buildings. To accomodate this need, execution of captives for the most part ceased and prisoners were bartered for use as slave labor. This economical ulitization of captives marked a degree of progress in the treatment of prisoners.

Following the fall of the Roman Empire, treatment of prisoners reverted to the barbaric and it was not until the latter part of the Middle Ages that prisoners gained some measure of leniency from their captors. The practice of monetary ransoming of prisoners envolved and became

so common place that definite scales of payment were established. Subsequently, nations gradually began to think of prisoners as unfortunate victims of the conflict. By the end of the middle ages, the principle of humane consideration for the vanquished was generally accepted, but, regrettably, was not universally employed.

The Treaty of Westphalia, which marked the end of the Thirty Years War in 1648, provided a foundation for the development of basic concepts for prisoner of war treatment. In that agreement, responsibility for the treatment of prisoners was shifted to the belligerent states rather than being left to the individual combat elements. Repatriation of prisoners without ransom was prescribed. In subsequent years, numerous pronouncements and agreements were made concerning treatment of prisoners of war. All of these, however, usually had a serious common fault in that they were only unilateral or bilateral in nature.

It was not until 1874, when representatives of 15 European nations met in Brussels, that a truly multi-national prisoners of war code was attempted. The Hague Conventions of 1899 and 1907 and Geneva Convention of 1906 followed and were the standards employed, without complete success, in World War I.

Twenty four nations, including the United States,

adopted and ratified the Hague Convention of 1899 With Respect to the Laws and Customs of War on Land. Article 2 of the Hague Convention of 1907 stipulated that the respective conventions would apply only between contracting parties and only then if all the belligerents were parties to the convention. Inasmuch as all the powers engaged in World War I were not parties to the treaty, The United States Government took the position that it was not to be considered a party to the convention even though it would comply with the provisions.

World War I exposed the inadequacies of the Hague and Geneva Conventions and highlighted the need for a more comprehensive code of regulations. On July 27, 1929, some 40 nations, including the United States, meeting in Geneva, agreed to the Convention Relative to the Treatment of Prisoners of War. Although most of the major world powers were parties to the convention, neither Japan nor the Soviet Union were.

After the outbreak of World War II, the International Committee of the Red Cross (ICRC) was instrumental in arranging repatriation of sick and wounded prisoners by acting as an intermediary between some of the belligerents. However, no exchanges were carried out between the Soviet Union and Germany until after the cessation of hostilities.

A revised Geneva Convention, drafted in 1949, had been

ed by many countries by the time hostilities broke out
orea in June 1950. Although none of the major powers
ratified the treaty, both sides agreed, shortly after
outbreak of the war, that they would abide by its
ulations. In late 1952, the Executive Committee of the
ue of Red Cross Societies asked the belligerents to
treat sick and wounded prisoners. The United Nations
and was willing to comply but the North Koreans ignored
request. Subsequently, a few prisoners were exchanged
early 1953 in "Operation Little Switch". The majority
the prisoners were not exchanged, however, until after
armistice agreement was signed on July 27, 1953.

The 1949 Geneva Convention was ratified by the U.S.
.956 and signed with reservations by the North Vietnamese
.957. That Convention set standards for the treatment
prisoners in any armed conflict whether or not there
been a declaration of war. In 1965, the ICRC informed
belligerents in the Vietnam War that hostilities had
shed the point where there could be no doubt that
constituted an armed conflict to which the regulations
humanitarian law should apply.¹

The North Vietnamese and Viet Cong (who never signed
Geneva Convention) maintained that U.S. military
personnel were war criminals not entitled to the protection
the Geneva Convention. They refused to give information

about the conditions of imprisonment, would not permit inspection of their detention camps and, until late 1970, failed to provide a list of U.S. personnel held prisoner.

Just as North Korea and Communist China refused to consider prisoner exchanges during the Korean War, North Vietnam and her allies showed little interest in an exchange agreement during the Vietnam war until it suited their purposes to use discussions on the prisoner issue as a favorable negotiating lever to influence the end of hostilities.

Unanimity among nations regarding the treatment of, and accounting for, enemy personnel is a goal yet to be achieved. The Vietnam war was unique in many aspects but one feature that distinguishes it is the attention focused on U.S. personnel missing in action. The lack of front lines, paucity of friendly territory, preponderance of small unit actions on the ground and high volume of air traffic with strikes far removed from friendly forces resulted in the disappearance of many personnel during engagements or while carrying out their mission.

The unwillingness of the Communist side to reveal who they were holding as prisoner added to the uncertainty as to the fate of unaccounted for personnel.

Although the subject of accounting for the missing and dead had been covered in past war-ending agreements,

the provisions for exchange of information contained in the agreement that ended the Vietnam War is perhaps the most specific such provision ever agreed to by parties in an armed conflict. The agreement has not, however, resulted in the Communist side revealing much information helpful in resolving the question of what happened to most of the missing.

UNRESOLVED CASES

Although American combat forces have been withdrawn from Vietnam; North Vietnam has stated that all American prisoners have been returned; and, the memories of our involvement in that war are beginning to fade, the arduous task of resolving the fate of those men who were listed as missing or captured and did not return is far from accomplished.

It has been some two years since Operation Homecoming culminated in the return of 564 American military personnel and 24 U.S. Civilians from captivity in Laos, North Vietnam and South Vietnam.

Country	Returned to U.S. Control, Feb 12-April 1, 1973 ²					CIVILIAN TOTAL
	USA	USN	USAF	USMC		
North Vietnam	0	135	312	9	1	457
South Vietnam	77	1	6	17	21	122
Laos	0	1	6	0	2	9
Total	77	137	324	26	24	588

Following the return of all of the U.S. personnel the North Vietnamese said were being held, almost 1300 remained unaccounted for.

Country	Personnel Unaccounted for In Southeast Asia ³				TOTAL
	USA	USN	USAF	USMC	
North Vietnam ¹	3	133	322	25	483
South Vietnam ²	329	5	89	70	493
Laos	16	13	265	14	308
Total	348	151	676	109	1284

1. Including 5 missing as a result of 2 aircraft losses in the vicinity of Hainan Island while in transit to the Tonkin Gulf.

2. Includes 20 missing in Cambodia as a result of U.S. air losses and operations in enemy sanctuary areas along the South Vietnam/Cambodian border.

The status of a small number of men was resolved based upon information provided by returnees. In some instances the returnee had first hand knowledge of the death of a fellow prisoner and this permitted a determination to be made. In other instances, the debriefings shed additional light on incidents in which some of the unaccounted for became missing but in the great majority of cases, nothing was known regarding the fate of these men.

Throughout the war, the U.S. Government explored many avenues attempting to gain accurate information regarding our missing and captured personnel. In the main, these efforts were never very successful if measured in terms of specifics as to who was being held. It was recognized that following the repatriation of prisoners, direct action to account for our missing would have to be pursued through continued negotiation and, hopefully, systematic search.

Extensive data was computerized and stored for correlation, analysis and use by the U.S. representative to the Four Party Joint Military team (FPJMT) and use by the Joint Casualty Resolution Center (JCRC). This data includes descriptive information and medical details on the individuals

concerned, the carefully plotted locations where they were last seen and eyewitness accounts from our own forces as well as all indigenous residents who were known to possess information about our prisoners or missing.

The FPJMT consisted of members representing the U.S., South Vietnam, North Vietnam and the Viet Cong. Although demands have been made by the U.S. representative for the other side to live up to the terms of the Paris Agreement which provides for mutual help in getting information on missing personnel, these demands have been unavailing.

The Paris Agreement provides in Article 8 that:

"....(b) The parties shall help each other to get information about those military personnel and foreign civilians of the parties missing in action, to determine the location and take care of the graves of the dead so as to facilitate the exhumation and repatriation of the remains and to take any such other measures as may be required to get information about those still considered missing in action."

The JCRC was established at Nakhon Phanom, Thailand, with the assigned mission of gathering information to resolve the status of U.S. missing personnel. It is trained and equipped to locate and investigate crash or grave sites throughout Southeast Asia as arranged through The Four Party Joint Military Commission. The success of the JCRC depended heavily on entry rights for search teams to areas throughout Southeast Asia where Americans are missing. Cooperation of the operating authorities of the countries involved has not been forthcoming.

While we hold that our search teams should be given access to all locations where our men are believed to be missing, that view is not shared by the other side. The prospect for a change in attitude to permit even limited access to North Vietnam or Laos is not optimistic. Indeed, even in South Vietnam where a portion of the territory was in friendly hands, over 90% of the crash sites and grave sites were in contested areas.

The stated humanitarian mission of the JCRC notwithstanding, its employment has been limited to a very few locations in South Vietnam and even these sparse search operations have resulted in additional casualties to both American and South Vietnamese personnel.

The dilemma that we faced at the end of hostilities has changed little then, regarding resolution of the status of our unaccounted for personnel.

RESOLUTION OF STATUS

The recording and changing of status of the missing personnel are governed by Sections 551-558, Title 37, United States Code (Missing Persons Act). Under public law, the service secretaries are given responsibility for status changes.

In making status determinations, two possibilities exist besides the option of retaining the individual in a missing status. In cases where information is received which conclusively establishes that the member is dead, then a report of death is issued. A finding of death, commonly known as a "presumptive finding" is made when circumstances are such that the missing individual cannot reasonably be presumed to be living.

The question of arriving at a finding of death is extremely difficult for the service secretary and those who are involved in recommending such action to the secretary.

As is certainly understandable, the families of those men who are unaccounted for are not of one accord on the issue of presumptive death. Some families are prepared to accept nothing less than return of positively identified remains as proof of death. Others are resigned to the fact that there is little on the horizon to offer hope that any additional information is forthcoming. Personnel involved in the decision process feel very strongly their responsibility

to uphold the law and at the same time protect the interests of the missing men and their families.

Some primary and secondary next of kin opposed to status changes in the absence of additional information, brought legal action to restrain the service secretaries from effecting any changes. That class-action suit resulted in a restraining order and the modification of procedures used by the services to now provide for attendance by the next of kin, including legal counsel if desired, at the hearing relative to a change in status.

The belief of some families that the services would act in a capricious manner in the changing of status and the U.S. Government conclusion in effect that there was no evidence that additional prisoners were being held, aggravated the emotional issue of effecting status changes.⁵

The anguish felt by many families was heightened after the euphoria of this country welcoming back its returned prisoners of war had passed. It had long been thought that many of the men we had listed as missing in action would turn up as prisoners. When they were not included on the roster of personnel to be released that was furnished by North Vietnam it was believed that their fate would likely be known by some of the returnees. When this failed to materialize, there was great disappointment felt by many next of kin who had endured long years of waiting.

Their feeling of frustration is understandable. The desirability of a full accounting for all missing personnel is appreciated by everyone associated with the determination process. The means by which that might be accomplished is not quite so clear.

This paper does not propose a solution to the very difficult problem of determining the status of a man still classified missing in action. Should he be continued indefinitely in that status? How much should the sentiments of the next of kin be considered in a decision where change of status is contemplated? Is passage of time without additional information that the man is alive sufficient basis alone for a change of status? Can a change of status be delayed, legally, if the war is over and the other side has said that all prisoners have been released? What is the veracity of the North Vietnamese government in their pronouncements that no more prisoners are held? What effort will we make to force the other side to permit entry of inspection teams? Is it possible that Americans are still being held as was the case following Korea? Could some of the missing still be evading the enemy and eventually surface?

These questions are some of the uncertainties entering into the decision process. The fact that a man is carried as missing in action is indicative of a careful assessment of the circumstance in which he became missing leading

the conclusion that he had a good chance of surviving. Otherwise, he would have been declared dead with his remains non-recoverable (there were over 1100 such cases).

Families who oppose status changes generally feel that the changing of status to killed in action would relieve the other side of all accountability for these men. They cite the wording of Article 8(b) of the Peace Agreement as clearly limiting the obligation of the Communists to supply information on the missing in action. They maintain that the only provision for the dead is an obligation to help determine the location of the grave site. If the man that the U.S. presumes to be dead is not, in fact, dead and therefore has no grave site then his accounting is no longer provided for in the treaty.

The lack of candor on the part of the North Vietnamese gives rise to legitimate concern. There were men listed as prisoner of war who failed to return. As a general rule, in order for the services to classify a man as prisoner of war, there was reasonable basis to believe that he had fallen into the hands of the enemy. The distinction is between prisoner of war where it is known or believed that he was taken captive and missing in action where he is presumed to have survived the incident resulting in his disappearance but his disposition is unknown.

In some instances, positive identification that the man was held by the Communists was made. Usually this was

though a photograph that appeared in some foreign publication related to the war in Indochina. Yet the man was never acknowledged by the Communists to be a prisoner of war and was not repatriated. We may only conjecture as to what happened to him and why he was never listed by the other side because they have ignored all requests to supply additional information. Instances such as these, and there are several, serve to reinforce the unwillingness of some to place any credence on the assurances of the North Vietnamese that they are holding no Americans. Only 9 prisoners were returned from Laos. We listed 300 unaccounted for there. The other side has stated that no more American prisoners are held in Laos.

Aside from government to government negotiations and the vagaries of the Communists' refusal to cooperate, the personal implications of a status change on the next of kin and the adequacy of the Missing Persons Act in the present environment are important elements in the adjudication process. Some of the considerations are:

A. The pay and allowances of each member is continued while he is in a missing status. This includes any special, hazardous duty, or incentive pay. Normal promotions are also awarded. Unallotted pay is held in a savings deposit plan which accrues interest at the annual rate of 10 percent. The law provides that the secretary, or his designee, may

start, stop or adjust any allotment when in the best interest of the member or his dependents. The services are very responsive to the next of kin in ensuring that financial needs are met. There have, however, been some instances where the service differed with the next of kin regarding protecting the interest of the missing members in allocation of his pay or in sizeable withdrawals from the savings deposit plan.

The judgment of the secretarial designee is also sometimes challenged in handling requests for funds from parents or others not dependent upon the member for support. Universal agreement on apportionment of the missing member's pay is not always achieved.

The law is quite specific as to the authority of the secretary or his designee in matters pertaining to allotments of pay or withdrawals from accumulated funds. These matters become quite complex when addressing problems associated with wives who have remarried while the member has been in a missing status and the subsequent marriage ended in annulment or divorce; or, the members' responsibility for child support in the case of his unadopted children following the remarriage of his wife. The list of complicating situations is almost endless. In some instances, several hundred thousand dollars have accumulated in the savings accounts of members who remain missing.

B. The laws pertaining to a change of status are not exhaustive in settling the affairs of the member or those persons who have a vested interest in the estate of the member. The predicament brought on by the extended period these men have been carried, and will perhaps be continued, in a missing status exceeds the time period apparently envisioned by the drafters of applicable portions of the U.S. Code. Resolution of many aspects of a members' personal affairs will likely be determined in civil court. Perhaps that is the proper forum and the laws governing the services are beneficent in their lack of specificity. Nevertheless, there are areas of uncertainty that are less than comforting to both the services and the next of kin.

C. The services have felt a very strong responsibility for the welfare of the families of the missing and captured men. Unprecedented casualty assistance programs were implemented to ensure a direct communication and responsiveness to the families' needs. Unfortunately, it is impossible to give this same individual attention to the families of persons who are no longer on the active rolls. A change of status would necessarily diminish not the concern of the services, but the individual attention that had been dedicated to the affairs of the missing. It should be pointed out that in the view of some individuals, a portion of the emphasis in programs for the families of men missing in action would have been placed more appropriately on the survivors of men killed in action.

CONCLUSION

involvement in, and the outcome of, any war is not predictable. We should, however, learn from the

experience gained from the Vietnam war should not be through any assumption that the circumstance will again obtain. The history of warfare indicates the prospect for humane treatment of captives and a concern for those unfortunate enough to become prisoners is not encouraging. We observed this nation polarizing the Vietnam war as to the question of national service and one's obligation to serve in the Armed Forces. As a period of hostility on the home front which the services take extraordinary measures to recognize the sacrifice made by missing or captured members and their families. Families of those men were more likely to hear of a prisoner through an anti-war group than through official channels. The extended period of uncertainty regarding the fate of unaccounted for personnel added to apprehension and frustration felt by those directly involved by our involvement in a war in which our procedures regarding the war to a close were not clearly perceptible.

As procedures for resolving missing in action cases subjected to continuing litigation and review is made

of the overall issue of the missing and captured problem,
the services must ensure that provisions are made to
maintain their procedures on these matters current for
any contingency.

Notes

1. American Enterprise Institute For Public Policy Research, The Prisoner of War Problem. Washington, D.C.: 1970, p 24.
2. U.S. Department of Defence, Office of the Assistant Secretary of Defence for National Security Affairs, Casualty Statistics, 1973.
3. U.S. Department of Defence, Office of the Assistant Secretary of Defence for National Security Affairs, Southeast Asia Report, 1973.
4. Paris Conference on Vietnam, Agreement for Ending the War and Restoring Peace in Vietnam, Signed January 27, 1973.
5. U.S. Congress, House, Committee on Foreign Affairs, American Prisoners of War and Missing in Action in Southeast Asia. Hearings, before a subcommittee on National Security Policy and Scientific Developments of the Committee on Foreign Affairs, House of Representatives, 93d Cong., 1st sess., 1973.

BIBLIOGRAPHY

- American Enterprise Institute For Public Policy Research.
The Prisoner of War Problem. Washington D.C. : 1970.
- Brodie, Bernard. War and Politics. New York: McMillan,
1973.
- Ellsberg, Daniel. Papers On The War. New York: Simon
and Schuster, 1972
- Gentleman, Marvin E. Vietnam:History Documents, and
Opinions. New York: Mentor, 1970.
- Paris Conference on Vietnam. Agreement for Ending the
War and Restoring Peace in Vietnam, 1973.
- Reischauer, Edwin O. Beyond Vietnam. New York: Random
House, 1967.
- U.S. Congress . House Committee on Foreign Affairs,
American Prisoners of War and Missing in Action
in Southeast Asia. Hearings, before a subcommittee,
1973.
- U.S. Department of Defence. Office of the Assistant
Secretary of Defence for National Security Affairs,
Casualty Statistics and Southeast Asia Report,
1973.

APPENDIX I

Fact Sheet-U.S. Joint Casualty Resolution Center

The Joint Casualty Resolution Center (JCRC), is a joint task force established by and under the command of the Commander in Chief Pacific. The unit is under the operational control of the Commander, United States Support Activities Group (USSAG). The Joint Casualty Resolution Center operates under Joint Chiefs of Staff approved mission and joint table of distribution.

The Joint Casualty Resolution Center is an outgrowth of United States Government efforts to identify, document, and maintain records of known and suspected missing in action and prisoners of war. These records were initially maintained by the Joint Personnel Recovery Center (JPRC), Saigon beginning in 1966. When the JCRC was established in Saigon on 23 January 1973, the records of the JCRC were turned over to the new organization.

The mission of the JCRC is to assist in resolving the status of those personnel missing in action (MIA) and those personnel declared dead whose bodies were not recovered (BNR), through the provision of information/coordination and/or conduct of operations to locate and investigate crash and grave sites and recover and identify remains throughout Southeast Asia.

In planning field operations, JCRC uses the following assumptions:

- (a) All parties concerned will meet their obligations

with respect to MIA's and dead assumed under the Vietnam and Lao agreements and will mutually assist in the resolution of such cases.

(b) Conditions for coordination with personnel in countries concerned will be provided in accordance with terms of the cease-fire agreements.

(c) Coordination of in-country activities in Laos and Cambodia will be accomplished through CINCPAC senior military representatives or designated American Embassy officers.

(d) Coordination of in-country activities within North and South Vietnam will be accomplished through negotiations within the Four-Party Joint Military Team (FPJMT).

(e) Access to all pertinent areas of Southeast Asia will be sought to allow JCRC teams to conduct casualty resolution operations.

In Saigon, an officer assigned to the Office of the Defense Attache, American Embassy, has been designated to act as a channel for direct communications between JCRC Headquarters and the U.S. Delegation to the FPJMT.

The JCRC is organized under a dual deputy system; The Deputy Commander for Staff Operations is responsible for the staff planning and coordination; the Deputy Commander for Field Operations supervises the field units.

Organizationally, the JCRC staff accomplishes the normal staff functions. Additional comments need to be made on three of the staff elements.

The Public Affairs Officer on the staff provides all available information on JCRC activities to the MACTHAI PAO in Bangkok. A JCRC officer is assigned to that office, where he serves as a casualty resolution point of contact and is in constant contact with the JCRC on all casualty resolution matters.

The Casualty Data Division assembles, correlates, and analyzes information on personnel who are missing in the vicinity of crash and burial sites. The function of this division includes data analysis, automated data processing function of this division includes data analysis, automated data processing, photo interpretation of aerial photos of crash sites, crash/grave site identification of areas in which JCRC teams will operate, and the maintaining of casualty records or dossiers on those personnel who have been in a missing in action status at one time or another during the conflict.

The Operations Division directs activities in the areas of operations, plans and communications. It also has a Public Communications Branch which provides staff assistance in the development of public information programs in an effort to obtain additional information concerning

crash and burial sites.

The major subordinate elements involved in field operations are two control teams, one oriented toward operations in Vietnam and one toward Laos and Cambodia. These control teams provide command and control of casualty resolution field teams, each comprised of five men, and will have operational command of all special augmentation personnel needed to accomplish the mission. Each control team has the capability of launching, supporting, and extracting the field teams and provides for requisite air, communications, and logistics support.

The field teams which will search for crash or grave sites consist of an officer, a radio operator, a medic, an interviewer, and a general duty assistant to the officer in charge, who are all Special Forces Troops.

Special Forces personnel will be used because they are trained to operate harmoniously with indigenous peoples, are familiar with jungle terrain and survival techniques, and are available for this humanitarian effort with minimum additional training. The field teams will be augmented, as required, by Air Force air crash investigators, trained personnel to disarm ordnance, and by indigenous personnel who will assist in the search and on-site operations. The JCRC has 11 organic field teams, with an augmentation capability of 10 more teams from the 1st Special Forces

Group en Okinawa and 16 teams from U.S. Special Forces assets in Thailand.

The Central Identification Laboratory, Thailand (CIL), located at Samae San, between U-tapao and Sattahip in South-eastern Thailand, about 80 miles from Bangkok, is under the operational command of the Joint Casualty Resolution Center. The CIL is organized into an identification laboratory and eight five-man recovery teams which will accompany the casualty resolution field teams.

The field teams will be deployed in various ways. They can be utilized as separate entities in the search operations for selected locations, or they can be deployed in a cluster arrangement. This concept visualizes a number of concurrent and consecutive crash/grave site operations located in one general area. This area would be in the vicinity of a forward operating base which ideally would be adjacent to an air strip that could accommodate arrival, resupply, and departure aircraft. The cluster concept provides a single area to concentrate on, allows for maximum advantage to be taken of helicopters by short but frequent missions to support several teams in one area, enhances the command, control, and communications support of a number of field teams from the central operating base, facilitates logistics and reduces the insertion problem of the special augmentation personnel (explosive ordnance disposal (EOD), crash investigators, documentary photographers, and CIL recovery teams).

A review of the steps that would be involved in the recovery process follows. The Casualty Resolution Staff develops selected areas for search and investigation based on known crash and grave sites and accomplishes the detailed planning and coordination effort using all available information culminating in an aerial search of the area, if authorized. This combined research will be followed by insertion personnel. A detailed search and inspection will follow. The results of these missions will be carefully documented. Upon completion of the search and investigation process, the teams and forward operating base will be extracted. Remains that have been located will be flown to the CIL for identification.

After analysis and recording has been completed, a detailed report will be forwarded to the services to assist in final determination on status of the personnel. Identified remains will be returned to the United States for burial as desired by next of kin.

APPENDIX II
Extracts From Title 37, U.S. Code

HISTORICAL AND REVISION NOTES

Revised section	Source (U.S. Code)	Source (Statutes at Large)
503(a).....	37:33(b) (3d sentence).	Aug. 9, 1946, ch. 931, § 4(b) (3d sentence); restated Aug. 4, 1947, ch. 475, § 1 (3d sentence of 2d par.), 61 Stat. 748.
	37:39 (less last proviso).	Aug. 17, 1949, ch. 452, § 1 (less last proviso), 63 Stat. 611.
503(b).....	42:210-1(b).	July 1, 1944, ch. 373, § 219(b); added Aug. 9, 1950, ch. 651, § 2 (2d par.), 64 Stat. 426.

In subsections (a) and (b), the words "for the period of that absence" are substituted for the words "during such absence".

AMENDMENTS

1966—Subsec. (a). Pub. L. 89-718 substituted "Environmental Science Services Administration" for "Coast and Geodetic Survey".

TRANSFER OF FUNCTIONS

The Environmental Science Services Administration in the Department of Commerce, including the offices of Administrator and Deputy Administrator thereof, were abolished by Reorg. Plan No. 4 of 1970, eff. Oct. 30, 1970, 85 F.R. 15627, 84 Stat. —, set out in the Appendix to Title 5, Government Organization and Employees, which created the National Oceanic and Atmospheric Administration in the Department of Commerce and transferred the personnel, property, records, and unexpended balances of funds of the Environmental Science Services Administration to such newly created National Oceanic and Atmospheric Administration. The components of the Environmental Science Services Administration thus transferred included the Weather Bureau, the Coast and Geodetic Survey, the Environmental Data Service, the National Environmental Satellite Center, and the ESSA Research Laboratories.

All functions of Public Health Service, of the Surgeon General of the Public Health Service, and of all other officers and employees of the Public Health Service, and all functions of all agencies of or in the Public Health Service transferred to Secretary of Health, Education, and Welfare by 1966 Reorg. Plan No. 3, 31 F.R. 8855, 80 Stat. 1610, effective June 25, 1966, set out in the Appendix to Title 5, Government Organization and Employees.

§ 504. Cadets and midshipmen: chapter does not apply to.

This chapter does not apply to cadets at the United States Military Academy, the United States Air Force Academy, the Coast Guard Academy, midshipmen at the United States Naval Academy, or cadets or midshipmen serving elsewhere in the armed forces. (Pub. L. 87-649, Sept. 7, 1962, 76 Stat. 483.)

HISTORICAL AND REVISION NOTES

Revised section	Source (U.S. Code)	Source (Statutes at Large)
504.....	37:39 (as applicable to payment for leave).	Aug. 9, 1946, ch. 931, § 10 (as applicable to payment for leave); added Aug. 4, 1947, ch. 475, § 3 (as applicable to payment for leave), 61 Stat. 749; Sept. 2, 1958, Pub. L. 85-861, § 23(d)(2), 72 Stat. 1567.

Chapter 10—PAYMENTS TO MISSING PERSONS

Sec.

551. Definitions.

552. Pay and allowances; continuance while in a missing status; limitations.

553. Allotments; continuance, suspension, initiation, resumption, or increase while in a missing status; limitations.

Sec.

554. Travel and transportation; dependents; household and personal effects; motor vehicles; sale of bulky items; claims for proceeds; appropriation chargeable.

555. Secretarial review.

556. Secretarial determinations.

557. Settlement of accounts.

558. Income tax deferment.

AMENDMENTS

1966—Pub. L. 89-554, § 5(b), Sept. 6, 1966, 80 Stat. 625, added chapter 10 and items 551-558.

CHAPTER REFERRED TO IN OTHER SECTIONS

This chapter is referred to in title 10 section 1524; title 18 section 1923.

§ 551. Definitions.

In this chapter—

(1) "dependent", with respect to a member of a uniformed service, means—

(A) his wife;

(B) his unmarried child (including an unmarried dependent stepchild or adopted child) under 21 years of age;

(C) his dependent mother or father;

(D) a dependent designated in official records; and

(E) a person determined to be dependent by the Secretary concerned, or his designee;

(2) "missing status" means the status of a member of a uniformed service who is officially carried or determined to be absent in a status of—

(A) missing;

(B) missing in action;

(C) interned in a foreign country;

(D) captured, beleaguered, or besieged by a hostile force; or

(E) detained in a foreign country against his will; and

(3) "pay and allowances" means—

(A) basic pay;

(B) special pay;

(C) incentive pay;

(D) basic allowance for quarters;

(E) basic allowance for subsistence; and

(F) station per diem allowances for not more than 90 days.

(Added Pub. L. 89-554, § 5(b), Sept. 6, 1966, 80 Stat. 625.)

HISTORICAL AND REVISION NOTES

Revised section	Source (U.S. Code)	Source (Status at Large)
551(1).....	50 App. 1001.	Mar. 7, 1942, ch. 163, § 1, 56 Stat. 143; July 1, 1944, ch. 371, § 1, 58 Stat. 679; Aug. 14, 1964, Pub. L. 88-432, § 1(1), (2), 78 Stat. 437.
551(2).....	50 App. 1002(a) (22d through 66th words of 1st sentence, for definition purposes).	Mar. 7, 1942, ch. 163, § 2(a) (22d through 66th and 96th through 120th words of 1st sentence, for definition purposes); added July 1, 1944, ch. 371, § 2, 58 Stat. 679; Apr. 4, 1953, ch. 17, § 1(a), 67 Stat. 21; Aug. 29, 1957, Pub. L. 85-217, § 1(b) (1st par.), 71 Stat. 433; Aug. 14, 1964, Pub. L. 88-432, § 1(3) (A), 78 Stat. 437.
551(3).....	50 App. 1002(a) (96th through 120th words of 1st sentence, for definition purposes).	

Only that portion of the source law which is applicable to members of the uniformed services and their dependents is codified in this section.

The words "In this chapter" are substituted for "For the purpose of this Act".

In clause (1), the words "with respect to a member of a uniformed service" are inserted for clarity. In clause (1) (A), the word "lawful" is omitted as unnecessary in view of the accepted recognition of the fact that the word "wife" means a lawful wife. In clause (1) (E), the words "Secretary concerned, or his designee" are substituted for "head of the department concerned, or subordinate designated by him" to conform to the definition in 37 U.S.C. 101(5). The definitions of "person", "active service", and "department", respectively, in 50 App. U.S.C. 1001(a) (1), (b), and (d) are omitted as unnecessary in view of the definitions of "member", "uniformed services", "active service", and "Secretary concerned", in 37 U.S.C. 101(3), (5), (20), and (23).

The definitions in clauses (2) and (3), which do not appear in, but are based on, the source law are created for legislative convenience.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in title 10 sections 1035, 1524.

§ 552. Pay and allowances; continuance while in a missing status; limitations.

(a) A member of a uniformed service who is on active duty or performing inactive-duty training, and who is in a missing status, is, for the period he is in that status, entitled to receive or have credited to his account the same pay and allowances, as defined in this chapter, to which he was entitled at the beginning of that period or may thereafter become entitled. However, a member who is performing full-time training duty or other full-time duty without pay, or inactive-duty training with or without pay, is entitled to the pay and allowances to which he would have been entitled if he had been on active duty with pay.

(b) The expiration of a member's term of service while he is in a missing status does not end his entitlement to pay and allowances under subsection (a) of this section. Notwithstanding the death of a member while in a missing status, entitlement to pay and allowances under subsection (a) of this section ends on the date—

- (1) the Secretary concerned receives evidence that the member is dead; or
- (2) that his death is prescribed or determined under section 555 of this title.

(c) A member is not entitled to pay and allowances under subsection (a) of this section for a period during which he is officially determined to be absent from his post of duty without authority, and he is indebted to the United States for payments from amounts credited to his account for that period.

(d) A member who is performing full-time training duty or inactive-duty training is entitled to the benefits of this section only when he is officially determined to be in a missing status that results from the performance of duties prescribed by competent authority.

(e) A member in a missing status who is continued in that status under section 555 of this title is entitled to be credited with pay and allowances under subsection (a) of this section. (Added Pub. L. 89-554, § 5(b), Sept. 6, 1966, 80 Stat. 625.)

HISTORICAL AND REVISION NOTES

Revised section	Source (U.S. Code)	Source (Statutes at Large)
552(a).....	50 App. 1002(a) (1st sentence, less last 46 words).	Mar. 7, 1942, ch. 166, § 2(a); added July 1, 1944, ch. 371, § 2, 68 Stat. 670; Apr. 4, 1953, ch. 17, § 1(a), 67 Stat. 21; Aug. 29, 1957, Pub. L. 85-217, § 1(b) (1st par.), 71 Stat. 491; Aug. 14, 1964, Pub. L. 88-428, § 1(3), 78 Stat. 437.
	50 App. 1014 (as applicable to § 1002(a) (1st sentence)).	Mar. 7, 1942, ch. 166, § 14 (as applicable to § 2(a) (1st and last sentences)), 66 Stat. 147; Apr. 4, 1953, ch. 17, § 1(e), 67 Stat. 21.
552(b).....	50 App. 1002(a) (last 46 words of 1st sentence, and 2d sentence).	
552(c).....	50 App. 1002(a) (3d sentence).	
552(d).....	50 App. 1002(a) (last sentence).	
	50 App. 1014 (as applicable to § 1002(a) (last sentence)).	
552(e).....	50 App. 1006 (2d sentence as applicable to pay and allowances).	Mar. 7, 1942, ch. 166, § 6 (2d sentence, as applicable to pay and allowances); added Dec. 24, 1942, ch. 828, § 1 (4th par.), 56 Stat. 1093; Aug. 14, 1964, Pub. L. 88-428, § 1(5) (B), 78 Stat. 437.

Only that portion of the source law which is applicable to members of the uniformed services and their dependents is codified in this section.

In subsection (a), the first 22 words are substituted for 50 App. U.S.C. 1002(a) (1st 66 words) to conform to the definitions in 37 U.S.C. 101(3), (18), (20), (22), and (23) and revised section 551(2) of this chapter. The words "pay and allowances, as defined in this chapter," are substituted for the enumeration of pay and allowances in 50 App. U.S.C. 1002(a) (1st sentence) to conform to the definition in revised section 551(3) of this chapter. The words "on active duty" are substituted for "performing full-time active duty" to conform to the definition in 37 U.S.C. 101(18).

In subsection (b), the first sentence is substituted for 50 App. U.S.C. 1002(a) (1st 21 words of 2d sentence). The words "or employment" are omitted as inapplicable to members of the uniformed services. The words "entitlement to pay and allowances under subsection (a) of this section" are substituted for "Such entitlement to pay and allowances" for clarity. The words "Notwithstanding the death of a member while in a missing status" are substituted for 50 App. U.S.C. 1002(a) (2d sentence, less 1st 21 words). The word "member" is substituted for "person" and the word "Secretary" is substituted for "department" to conform to the definitions in 37 U.S.C. 101(5) and (23).

In subsection (c), the words "A member" are substituted for "such person". The words "under subsection (a) of this section" are inserted for clarity. The words "United States" are substituted for "Government" to conform to the style of title 37.

In subsection (d), the words "A member . . . he . . . in a missing status" are substituted for "Persons", "such persons", and the enumerated absent status to conform to the definitions in 37 U.S.C. 101(23) and revised section 551(2) of this chapter.

In subsection (e), the words "A member in a missing status" are substituted for "a person missing under the conditions specified in section 2 of this Act" to conform to the definition in revised section 551(2) of this chapter. The words "under subsection (a) of this section" are substituted for "as provided in section 2 of this Act".

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 553, 555, 556, 557 of this title and in title 10 section 1524.

1. Allotments; continuance, suspension, initiation, resumption, or increase while in a missing status; limitations.

b) Notwithstanding the end of the period for which it was made, an allotment, including one for purchase of United States savings bonds, made to a member of a uniformed service before he was in missing status may be continued for the period he is entitled to pay and allowances under section 552 of this title.

c) When there is no allotment in effect, or when insufficient for a purpose authorized by the Secretary concerned, he, or his designee, may authorize allotments or increases in allotments that are warranted by the circumstances and payable for the period the member is entitled to pay and allowances under section 552 of this title.

d) The total of all allotments from the pay and allowances of a member in a missing status may not more than the amount of pay and allowances permitted to allot under regulations prescribed by the Secretary concerned.

e) A premium paid by the United States on insurance issued on the life of a member which is voided because it covers a period after his death reverts to the appropriation of the department concerned.

f) Subject to subsections (f) and (g) of this section, the Secretary concerned, or his designee, may, when he considers it in the interest of the member, his dependents, or the United States, direct the initiation, continuance, discontinuance, increase, decrease, suspension, or resumption of payments of allotments from the pay and allowances of a member entitled to pay and allowances under section 552 of this title.

g) When the Secretary concerned officially reports that a member in a missing status is alive, the payments of allotments authorized by subsections (d) of this section may, subject to section 552 of this title, be made until the date the Secretary concerned receives evidence that the member is dead and is returned to the controllable jurisdiction of the department concerned.

h) A member in a missing status who is continued in that status under section 555 of this title is entitled to have the payments of allotments authorized by subsections (a)–(d) of this section continued, increased, or initiated.

i) When the Secretary concerned considers it essential for the well-being and protection of the dependents of a member on active duty (other than a member entitled to pay and allowances under section 552 of this title), he may, with or without the consent, and subject to termination at the request, of the member—

- (1) direct the payment of a new allotment from the pay of the member;
- (2) increase or decrease the amount of an allotment made by the member; and
- (3) continue payment of an allotment of the member which has expired.

Added Pub. L. 89-554, § 5(b), Sept. 6, 1966, 80 Stat.

HISTORICAL AND REVISION NOTES

Revised section	Source (U.S. Code)	Source (Statutes at Large)
553(a).....	50 App. 1003 (1st sentence).	Mar. 7, 1942, ch. 166, § 3, 56 Stat. 144; Dec. 24, 1942, ch. 828, § 1 (1st par.), Stat. 1092; July 1, 1944, ch. 371, § 3, 58 Stat. 680.
553(b).....	50 App. 1003 (2d sentence, less provisos).	
553(c).....	50 App. 1003 (1st proviso of 2d sentence).	
553(d).....	50 App. 1003 (2d proviso of 2d sentence).	
553(e).....	50 App. 1004.	Mar. 7, 1942, ch. 166, § 4, 56 Stat. 144; Dec. 24, 1942, ch. 828, § 1 (2d par.), 56 Stat. 1093; July 1, 1944, ch. 371, § 4, 58 Stat. 680.
553(f).....	50 App. 1006 (1st sentence).	Mar. 7, 1942, ch. 166, § 6 (1st sentence and 2d sentence, as applicable to allotments); added Dec. 24, 1942, ch. 828, § 1 (4th par.), 56 Stat. 1093; Apr. 4, 1953, ch. 17, § 1(b), 67 Stat. 21; Aug. 14, 1964, Pub. L. 88-428, § 1(5), 78 Stat. 437.
553(g).....	50 App. 1014 (as applicable to § 1006 (1st sentence)).	
	50 App. 1006 (2d sentence, as applicable to allotments).	Mar. 7, 1942, ch. 166, § 7, 56 Stat. 145; Aug. 14, 1964, Pub. L. 88-428, § 1(6), 78 Stat. 437.
553(h).....	50 App. 1007.	Mar. 7, 1942, ch. 166, § 14 (as applicable to § 6 (1st sentence)), 56 Stat. 147; Apr. 4, 1953, ch. 17, § 1(c), 67 Stat. 21.

Only that portion of the source law which is applicable to members of the uniformed services and their dependents is codified in this section.

In subsection (a), the words "a member of a uniformed service . . . in a missing status . . . he . . . under section 552 of this title" are substituted for "any person . . . under section 2 of this Act . . . his absence", for clarity and to conform to the definition in revised section 551(2) of this chapter. The words "except as otherwise herein provided" are omitted as unnecessary.

In subsection (b), the words "Secretary concerned, he, or his designee," are substituted for "head of the department concerned . . . head of the department concerned, or such subordinate as he may designate" to conform to the definition in 37 U.S.C. 101(5). The word "member" is substituted for "person" to conform to the definition in 37 U.S.C. 101(23).

In subsection (c), the words "in effect" are omitted as unnecessary. The words "member in a missing status" are substituted for "absent person" to conform to the definition in revised section 551(2) of this chapter.

In subsection (d), the words "United States" are substituted for "Government" to conform to the style of title 37. The word "member" is substituted for "person" to conform to the definition in 37 U.S.C. 101(23).

In subsection (e), the words "Secretary concerned, or his designee," are substituted for "head of the department concerned, or such subordinates as he may designate," to conform to the definition in 37 U.S.C. 101(5). The words "United States" are substituted for "Government" to conform to the style of title 37. The words "when he considers it" are substituted for "When circumstances are deemed to justify such action". The word "member" is substituted for "person".

In subsection (f), the words "When the Secretary concerned officially reports that a member in a missing status" are substituted for "When it is officially reported by the head of the department concerned that a person missing under the conditions specified in section 2 of this Act". The words "the payments of allotments authorized by subsections (a)–(d) of this section may, subject to section 552 of this title . . . until the date the Secretary concerned" are substituted for "(the payments authorized by section 3 of this Act are, subject to the provisions of section 2 of this Act, authorized to be made for a period not to extend beyond the date of the receipt by the head of the department concerned". The words "the member" are substituted for "the missing person".

In subsection (g), the words "A member in a missing status" are substituted for "a person missing under the conditions specified in section 2 of this Act".

In subsection (h), the words "Secretary concerned" are substituted for "head of the department concerned." The words "a member on active duty" are substituted for "of persons in active service" to conform to the definitions in 37 U.S.C. 101((20) and (23). In clause (2), the words "heretofore or hereafter" are omitted as unnecessary.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 557 of this title and in title 10 section 1524.

§ 554. Travel and transportation; dependents; household and personal effects; motor vehicles; sale of bulky items; claims for proceeds; appropriation chargeable.

(a) In this section, "household and personal effects" and "household effects" may include, in addition to other authorized weight allowances, one privately owned motor vehicle which may be shipped at United States expense.

(b) Transportation (including packing, crating, drayage, temporary storage, and unpacking of household and personal effects) may be provided for the dependents and household and personal effects of a member of a uniformed service on active duty (without regard to pay grade) who is officially reported as dead, injured, or absent for a period of more than 29 days in a missing status—

- (1) to the member's official residence of record;
- (2) to the residence of his dependent, next of kin, or other person entitled to custody of the effects, under regulations prescribed by the Secretary concerned; or
- (3) on request of the member (if injured), or his dependent, next of kin, or other person described in clause (2), to another location determined in advance or later approved by the Secretary concerned, or his designee.

When he considers it necessary, the Secretary concerned may, with respect to the household and personal effects of a member who is officially reported as absent for a period of more than 29 days in a missing status, authorize the nontemporary storage of those effects for a period of one year, or longer when justified.

(c) When a member described in subsection (b) of this section is in an injured status, transportation of dependents and household and personal effects authorized by this section may be provided only when prolonged hospitalization or treatment is anticipated.

(d) Transportation requested by a dependent may be authorized under this section only if there is a reasonable relationship between the circumstances of the dependent and the requested destination.

(e) In place of the transportation for dependents authorized by this section, and after the travel is completed, the Secretary concerned may authorize—

- (1) reimbursement for the commercial cost of the transportation; or

- (2) a monetary allowance at the prescribed rate for all, or that part, of the travel for which transportation in kind is not furnished.

(f) The Secretary concerned may store the household and personal effects of a member described in subsection (b) of this section until proper disposition can be made. The cost of the storage and transportation (including packing, crating, drayage, temporary storage, and unpacking) of household and

personal effects shall be charged against appropriations currently available.

(g) The Secretary concerned may, when he determines that there is an emergency and a sale would be in the best interests of the United States, provide for the public or private sale of motor vehicles and other bulky items of household and personal effects of a member described in subsection (b) of this section. Before a sale, and if practicable, a reasonable effort shall be made to determine the desires of the interested persons. The net proceeds received from the sale shall, under regulations prescribed by the Secretary concerned, be sent to the owner or other persons. If there are no such persons, or if they or their addresses are not known within one year from the date of sale, the net proceeds may be covered into the Treasury as miscellaneous receipts.

(h) Claims for net proceeds that are covered into the Treasury under subsection (g) of this section may be filed with the General Accounting Office by the rightful owners, their heirs or next of kin, or their legal representatives at any time before the end of a 5-year period from the date the proceeds are covered into the Treasury. When a claim is filed, the General Accounting Office shall allow or disallow it. A claim that is allowed shall be paid from the appropriation for refunding money erroneously received and covered. If a claim is not filed before the end of the 5-year period from the date the proceeds are covered into the Treasury, it is barred from being acted on by the courts or the General Accounting Office.

(i) This section does not amend or repeal—

- (1) section 2575, 2733, 4712, 4713, 6522, 9712, or 9713 of title 10;

- (2) section 507 of title 14; or

- (3) chapter 171 of title 28.

(Added Pub. L. 89-554, § 5(b), Sept. 6, 1966, 80 Stat. 627, and amended Pub. L. 90-83, § 5(2), Sept. 11, 1967, 81 Stat. 221; Pub. L. 90-236, Jan. 2, 1968, 81 Stat. 764; Pub. L. 90-623, § 3(7), Oct. 22, 1968, 82 Stat. 1315.)

HISTORICAL AND REVISION NOTES

Revised section	Source (U.S. Code)	Source (Statutes at Large)
554(a).....	50 App. 1012 (14th sentence).	Mar. 7, 1942, ch. 166, § 12, 56 Stat. 146; Feb. 12, 1946, ch. 6, § 1(a), 60 Stat. 5; Aug. 29, 1951, ch. 356, § 1, 65 Stat. 207; Apr. 4, 1953, ch. 17, § 1(d), 67 Stat. 21; Aug. 29, 1957, Pub. L. 85-217, § 1(d), 71 Stat. 492; Aug. 14, 1964, Pub. L. 88-428, § 1(8), 78 Stat. 437.
554(b).....	50 App. 1012 (1st sentence).	Mar. 7, 1942, ch. 166, § 14 (as applicable to § 12 (1st sentence)), 56 Stat. 147; Apr. 4, 1953, ch. 17, § 1(e), 67 Stat. 21.
554(c).....	50 App. 1014 (as applicable to § 1012 (1st sentence)).	
554(d).....	50 App. 1012 (13th sentence).	
554(e).....	50 App. 1012 (11th sentence).	
554(f).....	50 App. 1012 (9th and 10th sentences).	
554(g).....	50 App. 1012 (2d 11th sentence).	
554(h).....	50 App. 1012 (5th 7th sentence).	
554(i).....	50 App. 1012 (8th sentence).	

Only that portion of the source law which is applicable to members of the uniformed services and their dependents is codified in this section.

In subsection (a), the words "Beginning June 25, 1950, and" are omitted as executed. The words "In this section" are substituted for "for the purposes of this section only, the terms". The words "not to exceed" are omitted as unnecessary. The words "outside the United States, or in Alaska or Hawaii" are substituted for "outside the continental limits of the United States or in Alaska" to conform to the definition in 37 U.S.C. 101(1).

In subsection (b), the words "Transportation . . . may be provided" are substituted for "may be moved". The words "a member of a uniformed service on active duty . . . or absent for a period of more than 29 days in a missing status" are substituted for "any person in active service . . . absent for a period of thirty days or more in any status listed in section 2 of this Act", for clarity and to conform to the definitions in 37 U.S.C. 101(20) and (23) and revised section 551(2) of this chapter. In clause (1), the words "the member's" are substituted for "for any such person". In clause (2), the words "under . . . prescribed . . . Secretary concerned" are substituted for "in accordance with . . . issued . . . head of the department concerned". In clause (3), the words "on request of the member" are substituted for "upon the person's application". The words "other person described in clause (2)" are substituted for "such . . . other person". The words "Secretary concerned, or his designee" are substituted for "head of the department concerned or by such person as he may designate".

In subsection (c), the words "a member described in subsection (b) of this section" are substituted for "the person". The words "transportation . . . authorized by this section" are substituted for "the movement . . . provided for herein". The words "provided . . . when" are substituted for "authorized . . . in cases where".

In subsection (d), the words "requested by a dependent may be authorized under . . . only" are substituted for "No . . . shall be authorized pursuant to . . . upon application by dependents unless". The words "condition and" are omitted as unnecessary.

In subsection (e), the words "In place . . . the Secretary concerned" are substituted for "In lieu . . . the head of the department concerned". In clause (1), the words "reimbursement for" are substituted for "the payment in money of amounts equal to". The words "In lieu of transportation", the second time they appear, are omitted as unnecessary. In clause (2), the words "at the prescribed rate" are substituted for "as authorized by law".

In subsection (f), the words "Secretary concerned" are substituted for "head of the department concerned". The words "a member described in subsection (b) of this section" are substituted for "the person". The words "such time as" are omitted as unnecessary.

In subsection (g), the words "Secretary concerned" are substituted for "head of the department concerned", in 50 App. U.S.C. 1012 (2d and 4th sentences). The words "United States" are substituted for "Government"; and the words "a member described in subsection (b) of this section" are substituted for "the person", in 50 App. U.S.C. 1012 (2d sentence). The words "under . . . prescribed" are substituted for "in accordance with . . . issued", and the word "known" is substituted for "ascertainable", in 50 App. U.S.C. 1012 (4th sentence).

In subsection (h), the words "under subsection (g) of this section" are substituted for "under the authority of this section", in 50 App. U.S.C. 1012 (5th sentence).

In subsection (i), the words "the provisions of" are omitted as unnecessary. Clause (3) is substituted for "the Federal Tort Claims Act (50 Stat. 842-847), as amended," to reflect the correct citation of that Act.

AMENDMENTS

1968—Subsec. (b). Pub. L. 90-623 substituted "29" for "twenty-nine".

1968—Subsec. (b). Pub. L. 90-236 added the provision authorizing the nontemporary storage of the household and personal effects of a member who is officially reported as absent for a period of more than 29 days in a missing status.

1967—Subsec. (a). Pub. L. 90-83 struck out "when it is located outside the United States, or in Alaska or Hawaii" following "shipped at United States expense".

EFFECTIVE DATE OF 1968 AMENDMENT

Amendment by Pub. L. 90-623 intended to restate without substantive change the law in effect on Oct. 22, 1968, see section 6 of Pub. L. 90-623, set out as a note under section 5334 of Title 5, Government Organization and Employees.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in title 10 section 1524.

§ 555. Secretarial review.

(a) When a member of a uniformed service entitled to pay and allowances under section 552 of this title has been in a missing status, and the official report of his death or of the circumstances of his absence has not been received by the Secretary concerned, he shall, before the end of a 12-month period in that status, have the case fully reviewed. After that review and the end of the 12-month period in a missing status, or after a later review which shall be made when warranted by information received or other circumstances, the Secretary concerned, or his designee, may—

(1) if the member can reasonably be presumed to be living, direct a continuance of his missing status; or

(2) make a finding of death.

(b) When a finding of death is made under subsection (a) of this section, it shall include the date death is presumed to have occurred for the purpose of—

(1) ending the crediting of pay and allowances;

(2) settlement of accounts; and

(3) payment of death gratuities.

That date is—

(A) the day after the day on which the 12-month period in a missing status ends; or

(B) if the missing status has been continued under subsection (a) of this section, the day determined by the Secretary concerned, or his designee.

(c) For the sole purpose of determining status under this section, a dependent of a member on active duty is treated as if he were a member. Any determination made by the Secretary concerned, or his designee, under this section is conclusive on all other departments and agencies of the United States. This subsection does not entitle a dependent to pay, allowances, or other compensation to which he is not otherwise entitled. (Added Pub. L. 89-554, § 5 (b), Sept. 6, 1966, 80 Stat. 628.)

HISTORICAL AND REVISION NOTES

Revised section	Source (U.S. Code)	Source (Statutes at Large)
555(a)	50 App. 1005 (1st and 2d sentences).	Mar. 7, 1942, ch. 166, § 5, 56 Stat. 145; Dec. 24, 1942, ch. 828, § 1 (3d par.), 56 Stat. 1093; Aug. 14, 1964, Pub. L. 88-428, § 1(d), 78 Stat. 437.
	50 App. 1014 (as applicable to § 1005 (1st sentence)).	Mar. 7, 1942, ch. 166, § 14 (as applicable to § 5 (1st sentence)), 56 Stat. 147; Apr. 4, 1953, ch. 17, § 1(c), 67 Stat. 21.
555(b)	50 App. 1005 (less 1st and 2d sentences).	
555(c)	50 App. 1005(b) (as applicable to § 1005).	Mar. 7, 1942, ch. 166, § 9(b) (as applicable to § 5); added Aug. 29, 1957, Pub. L. 85-217, § 1(c), 71 Stat. 492.

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Only that portion of the source law which is applicable to members of the uniformed services and their dependents is codified in this section.

In subsection (a), the words "member of a uniformed services" are substituted for "person". The words "in a mission status" and "in that status" are substituted for "absence" in three places. The words "Secretary concerned" are substituted for "head of the department concerned" in two places. In the second sentence, the words "or his designee" are supplied on authority of 50 App. U.S.C. 1009 which is codified in part in revised section 556(a) of this chapter. In clause (1), the words "member" and "his" are substituted for "person's" and "person", respectively.

In subsection (b), the words "under subsection (a) of this section" are inserted for clarity. In clause (A), the words "day on which the 12-month period in a missing status ends" are substituted for "day of expiration of an absence of twelve months". In clause (B), the words "under subsection (a) of this section" are substituted for "as hereinbefore authorized". The words "Secretary concerned" are substituted for "head of the department concerned". The words "or his designee" are supplied on authority of 50 App. U.S.C. 1009(a) which is codified in part in revised section 556(a) of this chapter.

In subsection (c), the first sentence is substituted for 50 App. U.S.C. 1009(b) (1st 31 words, as applicable to § 1005). The words "Secretary concerned" are substituted for "head of the department concerned". The words "or his designee" are supplied on authority of 50 App. U.S.C. 1009(a) which is codified in part in revised section 556(a) of this chapter. The words "departments and agencies of the United States" are substituted for "departments of the Government" in view of the definition of "department" in 50 App. U.S.C. 1001(d). The words "This subsection does not entitle" are substituted for "Provided, That nothing in this section shall be construed as conferring . . . any right".

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 552, 553, 556, 557 of this title and in title 10 section 1524.

§ 556. Secretarial determinations.

(a) The Secretary concerned, or his designee, may make any determination necessary to administer this chapter and, when so made, it is conclusive as to—

- (1) death or finding of death;
- (2) the fact of dependency under this chapter;
- (3) the fact of dependency for the purpose of paying six months' death gratuities authorized by law;
- (4) the fact of dependency under any other law authorizing the payment of pay, allowances, or other emoluments to enlisted members of the armed forces, when the payments are contingent on dependency;
- (5) any other status covered by this chapter;
- (6) an essential date, including one on which evidence or information is received by the Secretary concerned; and
- (7) whether information received concerning a member of a uniformed service is to be construed and acted on as an official report of death.

(b) When the Secretary concerned receives information that he considers establishes conclusively the death of a member of a uniformed service, he shall, notwithstanding any earlier action relating to death or other status of the member, act on it as an official report of death. After the end of the 12-month period in a missing status prescribed by section 555 of this title, the Secretary concerned, or his designee, shall, when he considers that the informa-

tion received, or a lapse of time without information, establishes a reasonable presumption that a member in a missing status in dead, make a finding of death.

(c) The Secretary concerned, or his designee, may determine the entitlement of a member to pay and allowances under this chapter, including credits and charges in his account, and that determination is conclusive. An account may not be charged or debited with an amount that a member captured, beleaguered, or besieged by a hostile force may receive or be entitled to receive from, or have placed to his credit by, the hostile force as pay, allowances, or other compensation.

(d) The Secretary concerned, or his designee, may, when warranted by the circumstances, reconsider a determination made under this chapter, and change or modify it.

(e) When the account of a member has been charged or debited with an allotment paid under this chapter, the amount so charged or debited shall be recredited to the account of the member if the Secretary concerned, or his designee, determines that the payment was induced by fraud or misrepresentation to which the member was not a party.

(f) Except an allotment for an unearned insurance premium, an allotment paid from pay and allowances of a member for the period he is entitled to pay and allowances under section 552 of this title may not be collected from the allottee as an overpayment when it was caused by delay in receiving evidence of death. An allotment payment for a period after the end of entitlement to pay and allowances under this chapter, or otherwise, which was caused by delay in receiving evidence of death, may not be collected from the allottee or charged against the pay of the deceased member.

(g) The Secretary concerned, or his designee, may waive the recovery of an erroneous payment or overpayment of an allotment to a dependent if he considers recovery is against equity and good conscience.

(h) For the sole purpose of determining status under this section, a dependent of a member of a uniformed service on active duty is treated as if he were a member. Any determination made by the Secretary concerned, or his designee, under this section is conclusive on all other departments and agencies of the United States. This subsection does not entitle a dependent to pay, allowances, or other compensation to which he is not otherwise entitled. (Added Pub. L. 89-554, § 5(b), Sept. 6, 1966, 80 Stat. 629.)

HISTORICAL AND REVISION NOTES

Revised section	Source (U.S. Code)	Source (Statutes at Large)
556(a)	50 App. 1009(a) (1st and 2d sentences).	Mar. 7, 1942, ch. 166, § 9(a) (less 6th and last sentences); added July 1, 1944, ch. 371, § 5, 58 Stat. 680; Apr. 4, 1953, ch. 17, § 1(c), 67 Stat. 21; Aug. 23, 1957, Pub. L. 85-217, § 1(c), 71 Stat. 492.
	50 App. 1010.	Mar. 7, 1942, ch. 166, § 10, 56 Stat. 145; July 1, 1944, ch. 371, § 6, 58 Stat. 681; Aug. 14, 1964, Pub. L. 88-428, § 1(7), 78 Stat. 437.
556(b)	50 App. 1009(a) (3d and 4th sentences).	

HISTORICAL AND REVISION NOTES—Continued

Revised section	Source (U. S. Code)	Source (Statutes at Large)
556(c).....	50 App. 1009(a) (8th sentence, last proviso); 50 App. 1014 (as applicable to § 1009(a) (1st proviso of 6th sentence)).	Mar. 7, 1942, ch. 166, § 14 (as applicable to § 9(a) (1st proviso of 8th sentence)), 56 Stat. 147; Apr. 4, 1953, ch. 17, § 1(e), 67 Stat. 21.
556(d).....	50 App. 1009(a) (7th sentence).	
556(e).....	50 App. 1009(a) (last proviso of 6th sentence).	
556(f).....	50 App. 1009(a) (8th sentence).	
556(g).....	50 App. 1009(a) (9th sentence).	
556(h).....	50 App. 1009(b) (as applicable to § 1009).	Mar. 7, 1942, ch. 166, § 9(b) (as applicable to § 9); added Aug. 29, 1957, Pub. L. 85-217, § 1(c), 71 Stat. 492.

Only that portion of the source law which is applicable to members of the uniformed services and their dependents is codified in this section.

In subsection (a), the words "Secretary concerned, or his designee," are substituted for "head of the department concerned, or such subordinate as he may designate." The words "for the purposes of this Act" are omitted as unnecessary. The words "final and" in 50 App. U.S.C. 1010 are omitted as unnecessary and for consistency with 50 App. U.S.C. 1009(e) (1st sentence). In clause (2), the words "under this chapter" are substituted for "under the provisions of this Act". In clause (4), the words "enlisted members of the armed forces" are substituted for "enlisted personnel in the Army, Navy, Air Force, Marine Corps, and Coast Guard of the United States" to conform to the definition in 37 U.S.C. 101(4). In clause (5), the words "covered by this chapter" are substituted for "dealt with by this Act". In clause (6), the words "by the Secretary concerned" are substituted for "in such department or by the head thereof". In clause (7), the word "member" is substituted for "person".

In subsection (b), the words "Secretary concerned . . . a member of a uniformed service, he shall . . . the member, act on it" are substituted for "any person . . . department concerned, action shall be taken thereon . . . such person". In the second sentence, the words "After the end of the 12-month period in a missing status" are substituted for "If the twelve months' absence . . . has expired". The words "the Secretary concerned, or his designee" are inserted for clarity. The words "a member" are substituted for "any person". The words "missing status" are substituted for "missing or other status" in view of the definition in revised section 551(2) of this chapter. The words "is dead" are substituted for "is no longer alive" for consistency with references in this section to "death".

In subsection (c), the words "Secretary concerned, or his designee . . . may . . . a member . . . under this chapter" are substituted for "head of the department concerned, or by such subordinate as he may designate . . . are authorized to . . . any person . . . under provisions of this Act". The words "a member" are substituted for "any person". The words "captured, beleaguered, or besieged by a hostile force" are substituted for "in the hands of a hostile force" on authority of 50 App. U.S.C. 1014.

In subsection (d), the words "Secretary concerned, or his designee" are substituted for "head of the department concerned, or such subordinate as he may designate". The words "under this chapter" are substituted for "authorized to be made by this Act".

In subsection (e), the words "a member . . . allotment paid under this chapter" are substituted for "any person . . . allotments paid pursuant to this Act". The words "the member if the Secretary concerned, or his designee . . . the payment . . . the member" are substituted for "such person's . . . in any case in which . . . the head of the department concerned, or such subordinate as he may designate . . . such person".

In subsection (f), the words "may not be collected" are substituted for "shall not be subject to collection" in two places. The word "member" is substituted for "person".

In subsection (g), the words "Secretary concerned, or his designee," are substituted for "head of the department concerned, or such subordinate as he may designate".

In subsection (h), the first sentence is substituted for 50 App. U.S.C. 1009(b) (1st 33 words, as applicable to § 1009). The words "Secretary concerned" are substituted for "head of the department concerned." The words "or his designee" are supplied on authority of 50 App. U.S.C. 1009(a) which is codified in part in revised section 556(a) of this chapter. The words "departments and agencies of the United States" are substituted for "departments of the Government" in view of the definition of "department" in 50 App. U.S.C. 1001(b). The words "This subsection does not entitle" are substituted for "Provided, That nothing in this section shall be construed as conferring . . . any right".

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in title 10 section 1524; title 38 sections 1701, 1801.

§ 557. Settlement of accounts.

(a) The Secretary concerned, or his designee, may settle the account of—

(1) a member of a uniformed service for whose account payments have been made under sections 552, 553, and 555 of this title; and

(2) a survivor of a casualty to a ship, station, or military installation which results in the loss or destruction of disbursing records.

That settlement is conclusive on the accounting officers of the United States in settling the accounts of disbursing officers.

(b) Payment or settlement of an account made pursuant to a report, determination, or finding of death may not be recovered or reopened because of a later report or determination which fixes a date of death. However, an account shall be reopened and settled on the basis of a date of death so fixed which is later than that used as a basis for earlier settlements.

(c) In the settlement of his accounts, a disbursing officer is entitled, if there is no fraud or criminality by him, to credit for an erroneous payment or overpayment he made in carrying out this chapter, except section 558. Unless there is fraud or criminality by him, recovery may not be made from a civilian officer or employee or a member of a uniformed service who authorizes a payment under this chapter, except section 558. (Added Pub. L. 89-554, § 5(b), Sept. 6, 1966, 80 Stat. 630.)

HISTORICAL AND REVISION NOTES

Revised section	Source (U. S. Code)	Source (Statutes at Large)
557(a).....	50 App. 1011.	Mar. 7, 1942, ch. 166, § 11, 56 Stat. 146.
557(b).....	50 App. 1009(a) (5th sentence).	Mar. 7, 1942, ch. 166, § 9(a) (5th and last sentences); added July 1, 1944, ch. 371, § 5, 58 Stat. 680; Aug. 29, 1957, Pub. L. 85-217, § 1(c), 71 Stat. 492.
557(c).....	50 App. 1009(a) (last sentence).	

Only that portion of the source law which is applicable to members of the uniformed services and their dependents is codified in this section.

In subsection (a), the words "Secretary concerned, or his designee," are substituted for "head of the department concerned, or such person as he may designate". The

words "a member of a uniformed service" are substituted for "persons". The words "United States" are substituted for "Government".

In subsection (c), the words "in carrying out this chapter, except section 558" are substituted for "in carrying out the provisions of this Act, except sections 13, 16, 17, and 18" since sections 16 and 17 are scheduled for repeal (see Table II) and section 18 was previously repealed. The words "under this chapter, except section 558" are substituted for "under such provisions" for the reasons stated in the preceding sentence.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in title 10 section 1524.

§ 558. Income tax deferment.

Notwithstanding any other provision of law, a Federal income tax return of, or the payment of a Federal income tax by, a member of a uniformed service who, at the time the return or payment would otherwise become due, is in a missing status, does not become due until the earlier of the following dates—

(1) the fifteenth day of the third month in which he ceased (except by reason of death or incompetency) being in a missing status, unless before the end of that fifteenth day he is again in a missing status; or

(2) the fifteenth day of the third month after the month in which an executor, administrator, or conservator of the estate of the taxpayer is appointed.

That due date is prescribed subject to the power of the Secretary of the Treasury or his delegate to extend the time for filing the return or paying the tax, as in other cases, and to assess and collect the tax as provided by sections 6851, 6861, and 6871 of title 26 in cases in which the assessment or collection is jeopardized and in cases of bankruptcy or receivership. (Added Pub. L. 89-554, § 5(b), Sept. 6, 1966, 80 Stat. 631.)

HISTORICAL AND REVISION NOTES

Revised section	Source (U.S. Code)	Source (Statutes at Large)
558.....	50 App. 1013.	Mar. 7, 1942, ch. 166, § 13, 56 Stat. 146; Aug. 8, 1947, ch. 515, § 6, 61 Stat. 918; Aug. 14, 1964, Pub. L. 88-428, § 1(9), 78 Stat. 437.

Only that portion of the source law which is applicable to members of the uniformed services and their dependents is codified in this section.

The words "in the case of any taxable year beginning after December 31, 1940" are omitted as unnecessary.

The words "as defined in section 101 (3) and (23) of title 37, United States Code" are omitted as unnecessary since the revised section is codified in title 37. The words "in a missing status" are substituted for "absent from his duty station under the conditions specified in section 2 of the Act" to conform to the definition in revised section 551(3) of this chapter and in view of the provisions of revised section 552 establishing the entitlement of a member in a missing status to receive pay and allowances or have them credited to his account. Reference to "title 26" is substituted for "Internal Revenue Code of 1954".

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 557 of this title and in title 10 section 1524.

Chapter 11.—PAYMENTS TO MENTALLY INCOMPETENT PERSONS

Sec.

601. Applicability.

602. Payments: designation of persons to receive amounts due.

603. Regulations.

604. Determination of Secretary final.

§ 601. Applicability.

This chapter applies to—

(1) members of a uniformed service who are on active duty (other than for training) or who are on a retired list of that service; and

(2) members of the Fleet Reserve or Fleet Marine Corps Reserve.

(Pub. L. 87-649, Sept. 7, 1962, 76 Stat. 483.)

HISTORICAL AND REVISION NOTES

Revised section	Source (U.S. Code)	Source (Statutes at Large)
601.....	37:351.	June 21, 1950, ch. 342, § 1, 64 Stat. 249.

The words "on active duty (other than for training)" are substituted for the words "on the active . . . list" to conform to longstanding administrative construction, and because there is no "active list" in the case of many of the uniformed services named, but only for certain regular components of those services, e.g., the "Regular Army" and the "Regular Air Force". The words "a retired list of that service" are substituted for the words "retired list", since there is more than one retired list for many of the services named. (See sections 1376, 3966, and 8966 of title 10, for example.) The words "members of the Reserve components of the respective services entitled to Federal pay either on the active or any retired list of said services" are omitted as covered by clause (1), since members of the reserve components are members of the uniformed service concerned. The word "transferred" is omitted as surplusage.

§ 602. Payments: designation of person to receive amounts due.

(a) Active duty pay and allowances, amounts due for accrued or accumulated leave, or retired or re-tainer pay, that are otherwise payable to a member to whom this chapter applies and who, in the opinion of a board of medical officers or physicians, is mentally incapable of managing his affairs, may be paid for that member's use or benefit to any person designated by the Secretary concerned, or by any officer to whom he delegates his authority under this section, without the appointment in judicial proceedings of a committee, guardian, or other legal representative.

(b) The board shall consist of at least three qualified medical officers or physicians, one of whom is specially qualified in the treatment of mental disorders, appointed from available medical officers or physicians under his jurisdiction by the head of whichever of the following is providing medical treatment for the member, or by a person designated by that head—

- (1) Department of the Army;
- (2) Department of the Navy;
- (3) Department of the Air Force;
- (4) Department of Health, Education, and Welfare; or
- (5) Veterans' Administration.